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City of Alhambra, et al.

[Exempt From Filing Fees,  
Gov. Code §6103]

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LOS ANGELES  
SUPERIOR COURT

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES**

10 CITY OF ALHAMBRA, CITY OF ARCADIA,  
11 CITY OF ARTESIA, CITY OF BALDWIN PARK,  
12 CITY OF BELL GARDENS, CITY OF  
13 BELLFLOWER, CITY OF BRADBURY, CITY  
OF BURBANK, CITY OF CALABASAS, CITY  
14 OF CARSON, CITY OF CERRITOS, CITY OF  
COMMERCE, CITY OF COVINA, CITY OF  
15 CULVER CITY, CITY OF DIAMOND BAR,  
CITY OF GARDENA, CITY OF GLENDALE,  
16 CITY OF GLEN DORA, CITY OF HAWAIIAN  
GARDENS, CITY OF HAWTHORNE, CITY OF  
17 HUNTINGTON PARK, CITY OF INDUSTRY,  
CITY OF IRWINDALE, CITY OF LA HABRA  
18 HEIGHTS, CITY OF LA MIRADA, CITY OF  
LAKEWOOD, CITY OF LAWNSDALE, CITY OF  
19 LOMITA, CITY OF LONG BEACH, CITY OF  
LYNWOOD, CITY OF MONTEBELLO, CITY  
OF MONTEREY PARK, CITY OF NORWALK,  
20 CITY OF PARAMOUNT, CITY OF PICO  
RIVERA, CITY OF POMONA, CITY OF  
21 REDONDO BEACH, CITY OF ROSEMEAD,  
CITY OF SAN DIMAS, CITY OF SANTA  
22 CLARITA, CITY OF SANTA FE SPRINGS,  
CITY OF SIERRA MADRE, CITY OF SIGNAL  
23 HILL, CITY OF SOUTH EL MONTE, CITY OF  
SOUTH GATE, CITY OF WEST COVINA, AND  
24 CITY OF WHITTIER,

Petitioners,

v.

26 COUNTY OF LOS ANGELES; LOS ANGELES  
27 COUNTY AUDITOR-CONTROLLER; WENDY  
WATANABE, in her official capacity; and DOES  
28 1-10, inclusive,

CASE NO.: BS 116375

[Unlimited Jurisdiction]

**FIRST AMENDED PETITION FOR WRIT  
OF MANDATE AND RELATED RELIEF**

Colantuono & Levin, PC  
555 West 5<sup>th</sup> Street, 31<sup>st</sup> Floor  
Los Angeles, CA 90013

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Respondents.

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over this matter pursuant to Code of Civil Procedure Section 1085.

2. Venue is proper in this court as all petitioners are cities located within the County of Los Angeles and the acts and events giving rise to the claims occurred in the County of Los Angeles.

**PARTIES**

3. Petitioner CITY OF ALHAMBRA is and at all times mentioned herein was a charter city organized under the laws of the State of California and located in the County of Los Angeles, California.

4. Petitioner CITY OF ARCADIA is and at all times mentioned herein was a charter city organized under the laws of the State of California and located in the County of Los Angeles, California.

5. Petitioner CITY OF ARTESIA is and at all times mentioned herein was a general law city organized under the laws of the State of California and located in the County of Los Angeles, California.

6. Petitioner CITY OF BALDWIN PARK is and at all times mentioned herein was a general law city organized under the laws of the State of California and located in the County of Los Angeles, California.

7. Petitioner CITY OF BELL GARDENS is and at all times mentioned herein was a general law city organized under the laws of the State of California and located in the County of Los Angeles, California.

8. Petitioner CITY OF BELLFLOWER and at all times mentioned herein was a general law city organized under the laws of the State of California and located in the County of Los Angeles, California.

1           9.       Petitioner CITY OF BRADBURY is and at all times mentioned herein was a general  
2 law city organized under the laws of the State of California and located in the County of Los  
3 Angeles, California.

4           10.       Petitioner CITY OF BURBANK and at all times mentioned herein was a charter city  
5 organized under the laws of the State of California and located in the County of Los Angeles,  
6 California.

7           11.       Petitioner CITY OF CALABASAS is and at all times mentioned herein was a general  
8 law city organized under the laws of the State of California and located in the County of Los  
9 Angeles, California.

10          12.       Petitioner CITY OF CARSON is and at all times mentioned herein was a general law  
11 city organized under the laws of the State of California and located in the County of Los Angeles,  
12 California.

13          13.       Petitioner CITY OF CERRITOS is and at all times mentioned herein was a charter  
14 city organized under the laws of the State of California and located in the County of Los Angeles,  
15 California.

16          14.       Petitioner CITY OF COMMERCE is and at all times mentioned herein was a general  
17 law city organized under the laws of the State of California and located in the County of Los  
18 Angeles, California.

19          15.       Petitioner CITY OF COVINA is and at all times mentioned herein was a general law  
20 city organized under the laws of the State of California and located in the County of Los Angeles,  
21 California.

22          16.       Petitioner CITY OF CULVER CITY is and at all times mentioned herein was a  
23 charter city organized under the laws of the State of California and located in the County of Los  
24 Angeles, California.

25          17.       Petitioner CITY OF DIAMOND BAR is and at all times mentioned herein was a  
26 general law city organized under the laws of the State of California and located in the County of Los  
27 Angeles, California.

28          18.       Petitioner CITY OF GARDENA is and at all times mentioned herein was a general

1 law city organized under the laws of the State of California and located in the County of Los  
2 Angeles, California.

3 19. Petitioner CITY OF GLENDALE is and at all times mentioned herein was a charter  
4 city organized under the laws of the State of California and located in the County of Los Angeles,  
5 California.

6 20. Petitioner CITY OF GLENDORA is and at all times mentioned herein was a general  
7 law city organized under the laws of the State of California and located in the County of Los  
8 Angeles, California.

9 21. Petitioner CITY OF HAWAIIAN GARDENS is and at all times mentioned herein  
10 was a general law city organized under the laws of the State of California and located in the County  
11 of Los Angeles, California.

12 22. Petitioner CITY OF HAWTHORNE is and at all times mentioned herein was a  
13 general law city organized under the laws of the State of California and located in the County of Los  
14 Angeles, California.

15 23. Petitioner CITY OF HUNTINGTON PARK is and at all times mentioned herein was  
16 a general law city organized under the laws of the State of California and located in the County of  
17 Los Angeles, California.

18 24. Petitioner CITY OF INDUSTRY is and at all times mentioned herein was a charter  
19 city organized under the laws of the State of California and located in the County of Los Angeles,  
20 California.

21 25. Petitioner CITY OF IRWINDALE is and at all times mentioned herein was a charter  
22 law city organized under the laws of the State of California and located in the County of Los  
23 Angeles, California.

24 26. Petitioner CITY OF LA HABRA HEIGHTS is and at all times mentioned herein was  
25 a general law city organized under the laws of the State of California and located in the County of  
26 Los Angeles, California.

27 27. Petitioner CITY OF LA MIRADA is and at all times mentioned herein was a general  
28 law city organized under the laws of the State of California and located in the County of Los

1 Angeles, California.

2 28. Petitioner CITY OF LAKEWOOD is and at all times mentioned herein was a general  
3 law city organized under the laws of the State of California and located in the County of Los  
4 Angeles, California.

5 29. Petitioner CITY OF LAWDALE is and at all times mentioned herein was a general  
6 law city organized under the laws of the State of California and located in the County of Los  
7 Angeles, California.

8 30. Petitioner CITY OF LOMITA is and at all times mentioned herein was a general law  
9 city organized under the laws of the State of California and located in the County of Los Angeles,  
10 California.

11 31. Petitioner CITY OF LONG BEACH is and at all times mentioned herein was a  
12 charter city organized under the laws of the State of California and located in the County of Los  
13 Angeles, California.

14 32. Petitioner CITY OF LYNWOOD is and at all times mentioned herein was a general  
15 law city organized under the laws of the State of California and located in the County of Los  
16 Angeles, California.

17 33. Petitioner CITY OF MONTEBELLO is and at all times mentioned herein was a  
18 general law city organized under the laws of the State of California and located in the County of Los  
19 Angeles, California.

20 34. Petitioner CITY OF MONTEREY PARK is and at all times mentioned herein was a  
21 general law city organized under the laws of the State of California and located in the County of Los  
22 Angeles, California.

23 35. Petitioner CITY OF NORWALK is and at all times mentioned herein was a general  
24 law city organized under the laws of the State of California and located in the County of Los  
25 Angeles, California.

26 36. Petitioner CITY OF PARAMOUNT is and at all times mentioned herein was a  
27 general law city organized under the laws of the State of California and located in the County of Los  
28 Angeles, California.

1           37.     Petitioner CITY OF PICO RIVERA is and at all times mentioned herein was a  
2 general law city organized under the laws of the State of California and located in the County of Los  
3 Angeles, California.

4           38.     Petitioner CITY OF POMONA is and at all times mentioned herein was a charter city  
5 organized under the laws of the State of California and located in the County of Los Angeles,  
6 California.

7           39.     Petitioner CITY OF REDONDO BEACH is and at all times mentioned herein was a  
8 charter city organized under the laws of the State of California and located in the County of Los  
9 Angeles, California.

10          40.     Petitioner CITY OF ROSEMEAD is and at all times mentioned herein was a general  
11 law city organized under the laws of the State of California and located in the County of Los  
12 Angeles, California.

13          41.     Petitioner CITY OF SAN DIMAS is and at all times mentioned herein was a general  
14 law city organized under the laws of the State of California and located in the County of Los  
15 Angeles, California.

16          42.     Petitioner CITY OF SANTA CLARITA is and at all times mentioned herein was a  
17 general law city organized under the laws of the State of California and located in the County of Los  
18 Angeles, California.

19          43.     Petitioner CITY OF SANTA FE SPRINGS is and at all times mentioned herein was a  
20 general law city organized under the laws of the State of California and located in the County of Los  
21 Angeles, California.

22          44.     Petitioner CITY OF SIERRA MADRE is and at all times mentioned herein was a  
23 general law city organized under the laws of the State of California and located in the County of Los  
24 Angeles, California.

25          45.     Petitioner CITY OF SIGNAL HILL is and at all times mentioned herein was a charter  
26 city organized under the laws of the State of California and located in the County of Los Angeles,  
27 California.

28          46.     Petitioner CITY OF SOUTH EL MONTE is and at all times mentioned herein was a

1 general law city organized under the laws of the State of California and located in the County of Los  
2 Angeles, California.

3 47. Petitioner CITY OF SOUTH GATE is and at all times mentioned herein was a  
4 general law city organized under the laws of the State of California and located in the County of Los  
5 Angeles, California.

6 48. Petitioner CITY OF WEST COVINA is and at all times mentioned herein was a  
7 general law city organized under the laws of the State of California and located in the County of Los  
8 Angeles, California.

9 49. Petitioner CITY OF WHITTIER is and at all times mentioned herein was a charter  
10 city organized under the laws of the State of California and located in the County of Los Angeles,  
11 California.

12 50. The Petitioners identified in paragraphs 3 through 46 above, inclusive, are  
13 collectively referred to herein, unless otherwise specified, as "PETITIONERS".

14 51. Respondent COUNTY OF LOS ANGELES is, and at all times mentioned herein was,  
15 a political subdivision of the state of California.  
16

17 52. Respondent OFFICE OF LOS ANGELES COUNTY AUDITOR-CONTROLLER is,  
18 and at all times mentioned herein had, responsibility for the administration and oversight of the  
19 distribution of property taxes to the local government agencies within the County of Los Angeles  
20 entitled to a portion of such property tax proceeds, including PETITIONERS.

21 53. Respondent WENDY WATANABE is the acting Auditor-Controller for the County  
22 of Los Angeles. In her capacity as the acting Auditor-Controller, she has responsibilities concerning  
23 the oversight of the distribution of property taxes to the agencies within the County of Los Angeles  
24 entitled to a portion of such property tax proceeds. Respondent WATANABE is sued herein in her  
25 official capacity.  
26

27 54. Respondents COUNTY OF LOS ANGELES, OFFICE OF LOS ANGELES  
28 COUNTY AUDITOR-CONTROLLER and WENDY WATANABE are collectively referred to

1 hercin, unless otherwise specified, as “RESPONDENTS”.

2 55. The true names and capacities of the Respondents identified as DOES 1-10, inclusive,  
3 are unknown to PETITIONERS, and PETITIONERS will amend this Petition to insert the true  
4 names and capacities of those fictitiously named Respondents when they are ascertained.  
5 PETITIONERS are informed and believe, and on that basis alleges, that at all times relevant to this  
6 action each of the RESPONDENTS, including those fictitiously named, was the agent or employee  
7 of each of the other RESPONDENT or RESPONDENTS, and while acting within the course and  
8 scope of such employment or agency, either took part in the acts or omissions alleged in this  
9 Petition.

10 **GENERAL ALLEGATIONS**

11  
12 56. RESPONDENTS, and each of them, are responsible for, among other duties,  
13 administering the distribution of property taxes revenues collected based on assessed property within  
14 Los Angeles County. As part of the administration of the property tax system, RESPONDENTS  
15 calculate and distribute to the various local government agencies within Los Angeles County each  
16 agency’s share of the property tax revenue.

17 57. The fee a county may charge an agency, including PETITIONERS; within the county  
18 for administering the property tax system is commonly termed the Property Tax Administration Fee  
19 (“PTAF”). Each agency’s annual PTAF is withheld by RESPONDENTS, and each of them, from  
20 the property tax distributions made by RESPONDENTS to PETITIONERS during any given fiscal  
21 year.

22 58. Effective July 1, 2004, Revenue & Taxation Code § 97.68 reduced the Bradley-Burns  
23 Sales and Use Tax rate paid to cities and counties by ¼-cent, and the ¼-cent is retained by the State  
24 of California to repay State-issued economic recovery bonds. Section 97.68 provides that, in lieu of  
25 the ¼-cent sales tax, cities and counties receive property taxes that otherwise would have been  
26 allocated to the county’s Educational Revenue Augmentation Fund (ERAF) for the benefit of  
27 schools and, ultimately, the State which bears constitutional responsibility to fund public education.  
28 This revenue swap, known commonly as the “Triple Flip,” was adopted as a temporary measure to



1 fund repayment of the economic recovery bonds.

2 59. Effective July 1, 2004, Revenue & Taxation Code § 97.70 reduced the amount of  
3 vehicle license fees (VLF) paid to cities and counties from 2% to 0.65% of a vehicle's assessed  
4 value. Section 97.70 provides that each city and county shall receive in-lieu payments of property  
5 taxes equal to the lost VLF. This substitution is commonly known as "the VLF Swap." The VLF  
6 Swap is a permanent feature of state-local finance relationship in that it has no legislatively provided  
7 sunset date.

8 60. Pursuant to Sections 97.68 and 97.70, RESPONDENTS have a duty to annually  
9 allocate and distribute to cities within Los Angeles County the appropriate in-lieu payments from  
10 property tax revenues to equal the revenue each city loses as a result of the Triple Flip and the VLF  
11 Swap.

12 61. Revenue & Taxation Code Section 97.75 mandates that counties may not charge for  
13 such services for the 2004/2005 and 2005/2006 fiscal years. Section 97.75 further mandates that  
14 although counties may charge for such services beginning in the 2006/2007 fiscal year, "the fee,  
15 charge, or other levy shall not exceed the actual cost of providing these services."

16 62. PETITIONERS are informed and believe, and on that basis allege, that beginning in  
17 or about the fiscal year 2006/2007 and continuing through the present, RESPONDENTS, and each  
18 of them, have charged, and continue to charge, PETITIONERS fees in excess of those permitted by  
19 Revenue & Taxation Code § 97.75. In particular, PETITIONERS are informed and believe, and on  
20 that basis allege, that RESPONDENTS have charged, and continue to charge, PETITIONERS more  
21 than the actual, incremental costs associated with RESPONDENTS' administration of the in-lieu  
22 payments for the VLF Swap and Triple Flip. Instead, RESPONDENTS have charged, and continue  
23 to charge, each Petitioner a share of PTAF based on the increased distribution of property tax  
24 proceeds due to the Triple Flip and the VLF Swap rather than the each Petitioner's proportionate  
25 share of the actual, incremental cost to administer the Triple Flip and VLF Swap. PETITIONERS  
26 are informed and believe, and on that basis allege that, the PTAF actually charged to each Petitioner  
27 and retained by RESPONDENTS, and each of them, is far in excess of that permitted by Revenue &  
28 Taxation Code § 97.75 and that net result of this illegal action has been to transfer approximately

1 \$13.5 million per year in PTAF charges from the County to the 88 cities within it, including  
2 PETITIONERS as to which the amount in issue exceeds \$4 million per year..

3 63. PETITIONERS are informed and believe, and on that basis allege, that the amount of  
4 PTAF fees RESPONDENTS have wrongfully withheld from property tax revenue distributions to  
5 PETITIONERS to date is, collectively, no less than \$8 million.

6 64. As to each individual City, each Petitioner has been damaged to date in an amount  
7 according to proof, but believed to be no less than the following:

- 8 a. As to Petitioner City of Alhambra, \$129,817 per year;
- 9 b. As to Petitioner City of Arcadia, \$86,548 per year;
- 10 c. As to Petitioner City of Artesia, \$25,476 per year;
- 11 d. As to Petitioner City of Baldwin Park, \$103,671 per year;
- 12 e. As to Petitioner City of Bell Gardens, \$52,240 per year;
- 13 f. As to Petitioner City of Bellflower, \$98,068 per year;
- 14 g. As to Petitioner City of Bradbury, \$845 per year;
- 15 h. As to Petitioner City of Burbank, \$205,573 per year;
- 16 i. As to Petitioner City of Calabasas, \$44,988 per year;
- 17 j. As to Petitioner City of Carson, \$155,664 per year;
- 18 k. As to Petitioner City of Cerritos, \$151,699 per year;
- 19 l. As to Petitioner City of Commerce, \$67,617 per year;
- 20 m. As to Petitioner City of Covina, \$80,248 per year;
- 21 n. As to Petitioner City of Culver City, \$106,583 per year;
- 22 o. As to Petitioner City of Diamond Bar, \$69,512 per year;
- 23 p. As to Petitioner City of Gardena, \$88,600 per year;
- 24 q. As to Petitioner City of Glendale, \$308,959 per year;
- 25 r. As to Petitioner City of Glendora, \$73,821 per year;
- 26 s. As to Petitioner City of Hawaiian Gardens, \$20,542 per year;
- 27 t. As to Petitioner City of Hawthorne, \$129,939 per year;
- 28 u. As to Petitioner City of Huntington Park, \$95,255 per year;

- v. As to Petitioner City of Industry, \$126,828 per year;
- w. As to Petitioner City of Irwindale, \$21,104 per year;
- x. As to Petitioner City of La Habra Heights, \$6,059 per year;
- y. As to Petitioner City of La Mirada, \$83,760 per year;
- z. As to Petitioner City of Lakewood, \$126,715 per year;
- aa. As to Petitioner City of Lawndale, \$44,867 per year;
- bb. As to Petitioner City of Lomita, \$27,014 per year;
- cc. As to Petitioner City of Long Beach, \$653,999 per year;
- dd. As to Petitioner City of Lynwood, \$83,039 per year;
- ee. As to Petitioner City of Montebello, \$105,179 per year;
- ff. As to Petitioner City of Monterey Park, \$79,931 per year;
- gg. As to Petitioner City of Norwalk, \$147,494 per year;
- hh. As to Petitioner City of Paramount, \$86,869 per year;
- ii. As to Petitioner City of Pico Rivera, \$97,465 per year;
- jj. As to Petitioner City of Pomona, \$239,189 per year;
- kk. As to Petitioner City of Redondo Beach, \$98,890 per year;
- ll. As to Petitioner City of Rosemead, \$68,899 per year;
- mm. As to Petitioner City of San Dimas, \$57,442 per year;
- nn. As to Petitioner City of Santa Clarita, \$283,068 per year;
- oo. As to Petitioner City of Santa Fe Springs, \$115,054 per year;
- pp. As to Petitioner City of Sierra Madre, \$11,943 per year;
- qq. As to Petitioner City of Signal Hill, \$51,142 per year;
- rr. As to Petitioner City of South El Monte, \$36,067 per year;
- ss. As to Petitioner City of South Gate, \$128,315 per year;
- tt. As to Petitioner City of West Covina, \$162,719 per year;
- uu. As to Petitioner City of Whittier, \$121,208 per year; and,
- vv. As to all 43 PETITIONERS in aggregate, \$4,758,172 per year.

65. PETITIONERS are informed and believe, and on that basis allege, that

1 RESPONDENTS intend to continue to withhold PTAF from each city's property tax distribution an  
2 amount in excess of that permitted by Section 97.75.

3 66. Each Petitioner has exhausted all available administrative remedies required to be  
4 pursued by it. While PETITIONERS do not conceded that they were required to do so, each  
5 Petitioner has filed a claim with the Respondent County of Los Angeles for damages in the amount  
6 of PTAF wrongfully withheld by the Respondent County of Los Angeles. To date, Respondent  
7 County of Los Angeles has refused to pay or otherwise credit any Petitioner for the PTAF  
8 wrongfully withheld.

9 FIRST CAUSE OF ACTION

10 FOR WRIT OF MANDATE

11 (All Petitioners Against All Respondents)

12 67. PETITIONERS reallege paragraphs 1 through 66 above as though set forth fully  
13 herein.

14 68. RESPONDENTS, and each of them, are under a clear, present duty pursuant to  
15 Revenue & Taxation Code Section 97.75 to charge PETITIONERS no more than their proportionate  
16 share of the actual, incremental costs to administer the Triple Flip and VLF Swap as distinguished  
17 from the costs to operate the property tax system that existed prior to the legislation of the these two  
18 fiscal devices and that would exist in the absence of those two devices.

19 69. RESPONDENTS, and each of them, have failed to perform that duty and, in fact, as  
20 more specifically alleged above, have wrongfully charged PTAF to PETITIONERS in excess of the  
21 amounts permitted by Revenue & Taxation Code Section 97.75.

22 70. PETITIONERS have each been harmed by RESPONDENTS' failure to comply with  
23 their duty in that PETITIONERS have had their property tax distributions reduced by more than as  
24 permitted by law.

25 71. PETITIONERS are informed and believe, and on that basis allege, that  
26 RESPONDENTS, and each of them, intend to continue to withhold from each Petitioner's property  
27 tax distribution amounts in excess of those permitted by Revenue & Taxation Code Section 97.75.

28 Therefore, unless otherwise directed by this Court, RESPONDENTS will continue to violate, and

1 refuse to comply with, Revenue & Taxation Code Section 97.75, thereby continuing to annually  
2 harm PETITIONERS by withholding PTAF from the property tax distributions in excess of that  
3 permitted by Revenue & Taxation Code Section 97.75.

4 72. PETITIONERS have no plain, speedy, and adequate remedy at law, other than the  
5 relief sought in this Petition. A Writ of Mandate is the only method available to obtain review of  
6 RESPONDENTS' actions in violation of their duty under Revenue & Taxation Code Section 97.75.

7 73. Accordingly, PETITIONERS are entitled to Writ of Mandate to issue as specified  
8 more fully below in the Prayer for Relief.

9 74. Additionally, PETITIONERS are entitled to payment of the PTAF withheld in excess  
10 of the amount authorized by Revenue & Taxation Code Section 97.75 as more fully detailed in  
11 Paragraph 66 above.

12 SECOND CAUSE OF ACTION FOR  
13 DAMAGES PURSUANT TO C.C.P. § 1095  
14 (All Petitioners Against All Respondents)

15 75. PETITIONERS reallege paragraphs 1 through 66 above as though set forth fully  
16 herein.

17 76. RESPONDENTS, and each of them, have withheld PTAF from each Petitioner's  
18 property tax distribution in excess of the amount authorized by Section 97.75.

19 77. Pursuant to Code of Civil Procedure Section 1095, PETITIONERS are entitled to  
20 recover the amounts wrongfully withheld by RESPONDENTS, and each of them, in an amount  
21 according to proof, but believed to be no less than the amounts specified for each Petitioner in  
22 Paragraph 63 above.

23 78. Pursuant to Civil Code Section 3287, PETITIONERS are each entitled to recover  
24 prejudgment interest on the amounts wrongfully withheld in an amount according to proof.

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THIRD CAUSE OF ACTION  
FOR DECLARATORY RELIEF

(All Petitioners Against All Respondents)

79. PETITIONERS reallege paragraphs 1 through 66 above as though set forth fully herein.

80. An actual and present controversy has arisen and now exists between PETITIONERS, on the one hand, and RESPONDENTS, on the other. PETITIONERS contend that the formula used by RESPONDENTS to calculate the PTAF for each Petitioner is contrary to limitations of Revenue and Taxation Code Section 97.75 and that RESPONDENTS intend to continue utilizing the improper formula and, further, intend to continue to charge PETITIONERS fees in excess of the amount permitted by law. RESPONDENTS, on the other hand, contend that the formula they have used to calculate PTAF is correct and that they are entitled to charge PETITIONERS fees in excess of the actual, incremental costs associated with administering the in-lieu payments for the VLF Swap and the Triple Flip.

81. PETITIONERS have no plain, speedy, and adequate remedy at law in that, in the absence of this Court's declarative and injunctive relief, RESPONDENTS will continue to utilize the incorrect formula and, as a result, PETITIONERS will not receive the annual property tax distributions to which they are entitled under law.

82. RESPONDENTS' refusal to comply with Revenue and Taxation Code Section 97.75 imposes and has created a present hardship to each Petitioner in that each Petitioner has not received the property tax distributions to which they are entitled as RESPONDENTS have withheld more in PTAF than permitted under law. The amount each Petitioner has been harmed to date is detailed in paragraph 63 above.

83. PETITIONERS desire and are entitled to a judicial declaration that RESPONDENTS' method of calculating the PTAF each Petitioner owes for services related to implementing the in-lieu payments for the VLF and Triple Flip swap is contrary to law and violates the limitations imposed by Revenue and Taxation Code Section 97.75.

84. Such declaratory relief is necessary and appropriate at this time, inasmuch as

1 PETITIONERS anticipate that RESPONDENTS, and each of them, will continue to withhold from  
2 each Petitioner's property tax distribution fees in excess of the limitations imposed by Revenue and  
3 Taxation Code Section 97.75. A declaration as detailed more fully in the prayer below will avoid  
4 subjecting PETITIONERS to the yearly unlawful reduction of their share of the property tax  
5 distributions made by RESPONDENTS.

6 85. Therefore, PETITIONERS pray for declaratory relief as more particularly described  
7 in the Prayer below.

8 FOURTH CAUSE OF ACTION

9 FOR INJUNCTIVE RELIEF

10 (All Petitioners Against All Respondents)

11 86. PETITIONERS reallege paragraphs 1 through 66 above as though set forth fully  
12 herein.

13 87. PETITIONERS have exhausted their administrative remedies.

14 88. Unless PETITIONERS are granted injunctive relief, and unless RESPONDENTS are  
15 enjoined from continuing to utilize a formula for calculating the PTAF that charges PETITIONERS  
16 more than their proportionate share of the actual, incremental costs to RESPONDENTS for  
17 administering the payments, PETITIONERS will suffer irreparable harm in that the PETITIONERS  
18 will continue to receive less property tax revenue than they are entitled to by law.

19 89. PETITIONERS lack an adequate remedy at law inasmuch the continued, improper  
20 reduction of their property tax revenue distributions will force each PETITIONER to pursue relief  
21 against the RESPONDENTS each of the four times per year that property taxes are distributed and  
22 PTAF is withheld, *ad infinitum*, to correct the unlawful imposition of PTAF in excess of that  
23 permitted by Revenue and Taxation Section 97.75.

24 90. Therefore, PETITIONERS pray for injunctive relief as more particularly described in  
25 the Prayer below.

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28 ///

1 WHEREFORE, PETITIONERS pray for relief as more fully set forth below:  
2

3 PRAYER FOR RELIEF

4 1. As to the First Cause of Action, the Court issue a peremptory writ of mandate  
5 directed RESPONDENTS, and each of them, to:

6 a. Comply with Revenue & Taxation Code Section 97.75 by utilizing a formula to  
7 calculate each Petitioner's proportionate share of the actual, incremental costs to  
8 RESPONDENTS to implement the VLF Swap and Triple Flip in-lieu payments  
9 excluding costs RESPONDENTS have incurred and will incur to operate the basic  
10 property tax system that existed prior to the adoption of Revenue & Taxation Code  
11 §§ 97.68 and 97.70 and that RESPONDENTS would incur if those Code sections had  
12 never been adopted;

13 b. Re-calculate each Petitioner's PTAF for the fiscal years after 2006/2007,  
14 2007/2008, 2008/2009 and each fiscal year that transpires while this action is pending  
15 based on such formula as developed in subsection (a) above; and,

16 c. Refund to each Petitioner the difference between the PTAF actually charged and  
17 the corrected PTAF based on the calculations in sub-sections (a) and (b) above;

18 2. As to the Second Cause of Action, damages in an amount according to proof for each  
19 Petitioner, plus pre-judgment interest pursuant to Civil Code § 3287;

20 3. As to the Third Cause of Action, the Court to enter declaratory judgment as follows:

21 a. A declaration that the method used by RESPONDENTS to calculate the PTAF for  
22 Petitioners for the fiscal years 2006/2007, 2007/2008, 2008/2009 and each fiscal year  
23 that transpires while this action is pending is contrary to the limitation imposed by  
24 Revenue & Taxation Code Section 97.75; and,

25 b. A declaration that RESPONDENTS may not charge fees to Petitioners for  
26 administering the VLF Swap and Triple Flip in-lieu payments in excess of each  
27 Petitioner's proportionate share of the actual, incremental costs to RESPONDENTS  
28 to implement the VLF Swap and Triple Flip in-lieu payments, excluding costs



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Los Angeles, CA 90013

1 RESPONDENTS have incurred and will incur to operate the basic property tax  
2 system that existed prior to the adoption of Revenue & Taxation Code §§ 97.68 and  
3 97.70 and that RESPONDENTS would incur if those Code sections had never been  
4 adopted; and,

5 c. A declaration that PETITIONERS are entitled to credit for PTAF withheld by  
6 RESPONDENTS in amounts in excess of each Petitioner's proportionate share of the  
7 actual, incremental costs to RESPONDENTS to implement the VLF Swap and Triple  
8 Flip in-lieu payments, excluding costs RESPONDENTS have incurred and will incur  
9 to operate the basic property tax system that existed prior to the adoption of Revenue  
10 & Taxation Code §§ 97.68 and 97.70 and that RESPONDENTS would incur if those  
11 Code sections had never been adopted.

12 4. As to the Fourth Cause of Action, the Court to issue a temporary restraining order and  
13 preliminary and permanent injunction, restraining RESPONDENTS from charging PETITIONERS  
14 property tax administration fees in excess of each PETITIONER'S proportionate share of the actual,  
15 incremental costs associated with administering Revenue & Taxation Code §§ 97.68 and 97.70,  
16 excluding costs RESPONDENTS have incurred and will incur to operate the basic property tax  
17 system that existed prior to the adoption of Revenue & Taxation Code §§ 97.68 and 97.70 and that  
18 RESPONDENTS would incur if those Code sections had never been adopted.

19  
20  
21 DATED: November 18, 2008

COLANTUONO & LEVIN, PC



HOLLY O. WHATLEY  
Attorneys for Petitioners  
City of Alhambra, et al.

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**PROOF OF SERVICE**  
*City of Alhambra, et al., v. County of Los Angeles, et al.*  
*Case No. Case # BS 116375*

I, Martha C. Rodriguez, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 555 West 5<sup>th</sup> Street, 31<sup>st</sup> Floor, Los Angeles, California 90013. On November 18, 2008, I served the document(s) described as [Document(s) Served] on the interested parties in this action as follows:

By placing a true copy thereof enclosed in a sealed envelope addressed as follows:


Scott D. Bertzyk, Esq.  
Charlene L. Oh, Esq.  
GREENBERG TRAURIG, LLP  
2450 Colorado Avenue, Suite 400E  
Santa Monica, CA 90404

Raymond G. Fortner, Jr., County Counsel  
Elizabeth M. Cortez, Assistant County Counsel  
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Los Angeles, CA 90012-2713

BY MAIL: The envelope was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after service of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 18, 2008, at Los Angeles, California.

  
\_\_\_\_\_  
Martha C. Rodriguez